

STATE OF GEORGIA DEPARTMENT OF BANKING AND FINANCE



BULLETIN... BULLETIN... BULLETIN... BULLETIN... BULLETIN...

NATHAN DEAL
GOVERNOR

KEVIN HAGLER
COMMISSIONER

SPECIAL EDITION
IMPORTANT NOTICE
PROPOSED RULEMAKING

October 4, 2013

**NOTICE OF PROPOSED RULEMAKING
AND
OPPORTUNITY TO COMMENT**

**PROPOSED ENACTMENT OF RULES AND REGULATIONS
BY
DEPARTMENT OF BANKING AND FINANCE
STATE OF GEORGIA**

To all interested persons:

Pursuant to the provisions of the Georgia Administrative Procedure Act, O.C.G.A. § 50-13-1 et seq., and by the authority of O.C.G.A. §§ 7-1-61, 7-1-688, 7-1-704, 7-1-1012 and other cited statutes, the Department of Banking and Finance hereby gives notice of its intent to adopt new rules.

A synopsis and purpose precedes the proposed rules.

Comments to the Department of Banking and Finance must be received by the close of business on **Monday, November 4, 2013**. Please send all comments to:

Kevin Hagler, Commissioner
Georgia Department of Banking and Finance
2990 Brandywine Road, Suite 200
Atlanta, GA 30341-5565

Fax: (770) 986-1654 or 1655
Email: dbf@dbf.state.ga.us

The Department shall review all comments, may contact commenters to discuss their suggestions, and, after the comment period has closed, intends on promulgating the final rules. The Department will consider the proposed new rules for adoption at a meeting **at 2:00 p.m. on Tuesday, November 5, 2013**, at the offices of the Department of Banking and Finance at Suite 200, 2990 Brandywine Road, Atlanta, Georgia 30341. Notice and a copy of the final rules adopted will be e-mailed to persons who have made a special request, and will be made available on our website at <http://dbf.georgia.gov/>. Other interested parties may receive a copy of the final rule by contacting the Department at (770) 986-1633, after **Wednesday, November 6, 2013**.

2013 Rules and Regulations

Proposed Changes: Synopsis, Purpose and Background

80-1-12-.02 Intercompany Dealings, Management Fees.

In light of recent volatility in real estate, the proposed change provides greater flexibility in determining whether a transaction between a bank and its affiliates is detrimental.

80-3-1-.07 Administrative Fines and Penalties.

The proposed revision to paragraph 1(a) clarifies that fines can be imposed for each violation of the books and records requirements. Proposed paragraph (1)(q) provides that the failure of a licensed check casher to disclose that the individual that executed the required lawful presence is no longer affiliated with the check casher or the failure of the check casher to submit a revised lawful presence affidavit after the affiant is no longer affiliated with the check casher will subject the licensee to a \$1,000.00 fine. The proposed revision to paragraph 2(a) clarifies that fines can be imposed for each violation of the books and records requirements. Proposed paragraph (2)(n) provides that the failure of a licensed check seller or money transmitter to disclose that the individual that executed the required lawful presence is no longer affiliated with the check seller or money transmitter or the failure of the check seller or money transmitter to submit a revised lawful presence affidavit after the affiant is no longer affiliated with the check seller or money transmitter will subject the licensee to a \$1,000.00 fine.

80-3-1-.09 Verification of Lawful Presence Citizenship Affidavit.

This proposed rule requires that the lawful presence affidavit required by O.C.G.A. § 50-36-1 be executed by the owner or executive officer of a licensed check casher, money transmitter, or seller of checks and that the licensee notify the Department within ten (10) days if the affiant is no longer an owner or executive officer of the licensee.

80-5-1-.04 Levy, Collection, Remittance and Refunds of Georgia Residential Mortgage Act Per Loan Fee.

The proposed change will clarify the transactions in which the \$10.00 Georgia Residential Mortgage Act per loan fee must be collected.

80-5-1-.05 Other Charges and Fees.

The proposed change reduces the amount that the Department will charge for photocopies from twenty-five (25) cents per page to ten (10) cents per page and eliminates the fee imposed by the Department for providing a certificate of valid existence.

80-10-1-.01 Minimum Records Retention Periods.

The proposed change eliminates abbreviations in the current rule.

80-11-1-.04 Branch Managers.

The proposed change reflects the Department's statutory interpretation that an individual must be licensed as a mortgage loan originator in order to be a branch manager for a licensed mortgage lender or mortgage broker.

80-11-3-.01 Administrative Fines.

The proposed change in paragraph (13) clarifies that the failure to file a fee statement related to the \$10.00 Georgia Residential Mortgage Act per loan fee, even if no fees are due, will subject the party to a late filing fine of \$100.00. The proposed change in paragraph (15) provides that the failure to provide any of the notices to the Department as set forth in O.C.G.A. § 7-1-1007(d) will subject the person to a fine of \$1,000.00. Proposed paragraph (29) provides that the failure of a licensed mortgage broker or lender to disclose that the individual that executed the required lawful presence is no longer affiliated with the mortgage lender or broker or the failure of the mortgage broker or lender to submit a revised lawful presence affidavit after the affiant is no longer affiliated with the mortgage broker or lender will subject the licensee to a \$1,000.00 fine. Proposed paragraph (30) provides that the failure of a mortgage lender, mortgage broker, or registrant to update its information on the Nationwide Multi-State Licensing System and Registry ("NMLS") or the failure of its control person to update his/her information on the NMLS will result in a fine of \$1,000.00.

80-11-4-.07 Loan Processors as Brokers.

The proposed amendment will correct an incorrect statutory cross-reference.

80-11-4-.10 Verification of Lawful Presence Citizenship Affidavit

This proposed rule requires that the lawful presence affidavit required by O.C.G.A. § 50-36-1 be executed by the owner or executive officer of a licensed mortgage broker or mortgage lender and that the licensee notify the Department within ten (10) days if the affiant is no longer an owner or executive officer of the licensee.

80-11-4-.11 Information on the Nationwide Multi-State Licensing System and Registry

This proposed rule requires mortgage lenders, mortgage brokers, and registrants to keep their information current on the NMLS and to make any amendments to information and disclosure questions, including, but not limited to an MU-1, within ten (10) days of the event necessitating the revision. This proposed rule also requires mortgage lenders, mortgage brokers, and registrants to ensure that their control persons keep their information current on the NMLS and for the control persons to make any amendments to contact information and disclosure questions, including, but not limited to an MU-2, within ten (10) days of the event necessitating the revision.

80-11-5-.05 Administrative Fines.

The proposed change to paragraph (4)(d) will correct an incorrect regulatory cross-reference. Proposed paragraph (4)(j) provides that the failure of a mortgage loan originator to update his or her information on the NMLS within ten days of the occurrence of the event necessitating the change will result in a fine of \$1,000.00.

80-11-5-.07 Information on the Nationwide Mortgage Licensing System and Registry.

The proposed change to paragraph (1) will clarify that mortgage loan originators must keep their information current on the NMLS and make amendments to any information provided on NMLS within ten (10) days of the event necessitating the revision.

PROPOSED RULES

80-1-12-.02 Intercompany Dealings, Management Fees.

(1) No bank or trust company shall purchase, lease, or sell any asset or service from or to any affiliate upon terms which are detrimental to the bank or trust company or any minority shareholders of the bank or trust company. ~~Purchases, leases, or sales at cost or at market value shall not be considered "detrimental."~~ ~~Other m~~Methods for determining propriety of a transaction shall be subject to Departmental oversight and review.

(2) Tax payments by a bank or trust company to a bank holding company shall generally be consistent with the payment of tax liabilities which would have been made had it filed tax returns as a separate entity, eliminating any benefit arising from surtax exemptions. Timing of such payments should generally be in concert with tax payment dates prescribed by tax regulations for estimated tax payments and the rendering of final returns.

(3) Management fees and other charges:

(a) Management fees and other charges, other than specific charges for reimbursement of tax payments or for the purchase or lease of assets or services, payable to a bank holding company or an affiliate of a bank holding company may be paid by the banking or trust subsidiary provided such fees and charges do not exceed the subsidiary's pro rata share of the administrative overhead of the bank holding company plus any direct expenses attributable to the subsidiary and it is clearly demonstrated that the subsidiary has received direct benefit from its relationship with the holding company. Such pro rata share shall be determined through an equitable proration of such administrative overhead among all holding company subsidiaries and activities. The proration may be based on any reasonable formula provided such formula is justified by appropriate memorandum in the files of the bank or trust company and approved by the Board of Directors of the bank or trust company. Such formula shall be subject to Departmental oversight and review.

(b) Administrative overhead shall include only those expenses incurred in general support of all holding company activities and not specifically allocable to a particular subsidiary or activity.

(c) Administrative overhead shall not include net losses incurred in any holding company activity, subsidiary, or investment; nor shall the term include any closing costs, interest, service charge or other expense incurred in connection with any debt owed by the holding company. Administrative overhead shall also not include any salary or other compensation of officers, directors or shareholders which is not commensurate with duties and responsibilities performed in some official capacity with the holding company. Time devoted to performance of duties and fulfilling responsibilities at the holding company level and compensation in connection with such action shall be considered in establishing reasonable levels of compensation from the bank or trust company for persons who are employed by both entities. Each entity shall pay only that portion of the total compensation as is commensurate with the duties performed on behalf of that entity.

(4) Fees and charges contemplated under this Rule may be paid after the liability therefor is incurred. Administrative overhead may be accrued or paid monthly based upon a reasonable projection of actual charges, provided such accrual or payment is adjusted to actual expenses at least annually. No such fee or charge may be paid in advance. Appropriate documentation and justification must be maintained in the bank for any disbursement governed by this Rule.

Authority Ga. L. 1974, p. 733; 1976, p. 175.

CHAPTER 80-3-1

MONEY TRANSMISSION AND RELATED FINANCIAL SERVICES

TABLE OF CONTENTS

80-3-1-.01 Check Sellers and Money Transmitters; Exemptions and Requirements.

80-3-1-.02 Check Cashers.

80-3-1-.03 Money Service Businesses: Compliance with Federal Requirements.

80-3-1-.04 Reports of Large Currency Transactions, Recordkeeping, and Suspicious Activity Reporting Requirements for Check Cashers, Check Sellers and Money Transmitters.

80-3-1-.05 Repealed. Reserved.

80-3-1-.06 Reports of Apparent Criminal Irregularity by Check Cashers, Check Sellers, Money Transmitters, and Agents.

80-3-1-.07 Administrative Fines and Penalties.

80-3-1-.08 State Requirements for Financial Institutions.

[80-3-1-.09 Verification of Lawful Presence Citizenship Affidavit.](#)

80-3-1-.07 Administrative Fines and Penalties.

(1) Check Cashers. As authorized under O.C.G.A. Article 4A of Chapter 1 of Title 7, including O.C.G.A. §7-1-707(e) (6), the Department establishes the following fines and penalties for violation of the laws and rules governing check cashers. Except as otherwise indicated, these fines and penalties apply to any person, partnership, association, or corporation engaged in the business of cashing checks, drafts, or money orders for a consideration that is required to be licensed or registered under O.C.G.A. Article 4A of Chapter 1 of Title 7 (“licensee” or “registrant”). The Department, at its sole discretion, may waive or modify a fine based upon the gravity of the violation, history of previous violations, and such other facts and circumstances as have contributed to the violation.

(a) Books and Records. If the Department in the course of an examination or investigation, finds that a licensee or registrant has failed to maintain their books and records or failed to certify to the books and records according to the requirements of O.C.G.A. § 7-1-705(b) and Rules 80-3-1-.02(1) or 80-3-1-.02(5), such licensee or registrant shall be subject to a fine of one thousand dollars (\$1,000) for each ~~type of record~~violation listed in Rules 80-3-1-.02(1) or 80-3-1-.02(5) which is not in compliance or which is absent or uncertified.

(b) Excessive Fees. If the Department, in the course of an examination or investigation, finds that a licensee or registrant has charged check cashing fees in excess of the amount set forth in O.C.G.A. § 7-1-706, such licensee or registrant shall be subject to a fine of one thousand dollars (\$1,000) per occurrence and its license or registration will be subject to revocation or suspension.

(c) Posting of Charges. Any licensee or registrant who does not display, at all locations, a notice stating the charges/fees for cashing checks in accordance with O.C.G.A. § 7-1-705(a) shall be subject to a fine of five hundred dollars (\$500).

(d) Operating Without Proper License or Registration. Any person who acts as a check casher prior to receiving a current license or registration required under O.C.G.A. Article 4A of Chapter 1 of Title 7, or who acquires a check cashing business and operates without their own license, or during the time a suspension, revocation or applicable cease and desist order is in effect, shall be subject to a fine of one thousand dollars (\$1,000) per day and their check casher application will be subject to denial or their license or registration will be subject to revocation or suspension, as applicable.

(e) Felons. Any licensee or registrant that hires or retains an employee who is a felon as described in O.C.G.A. § 7-1-702(b), when such employee has not complied with the remedies provided for in O.C.G.A. § 7-1-702(b) for each conviction, may be fined five thousand dollars (\$5,000) for each such employee and their license or registration will be subject to revocation or suspension.

(f) Employee Background Checks. Any licensee or registrant that hires or retains an employee involved with the check cashing function for whom a Georgia Crime Information Center (GCIC) criminal background check has not been performed prior to employment, will be subject to a fine of one thousand dollars (\$1,000) per occurrence. Proof of the required GCIC criminal background check must be retained in the employee's personnel file until one year after termination of employment by the licensee. Notwithstanding compliance with this requirement to perform a GCIC criminal background check prior to employment, failure to maintain criminal background checks as required will result in a fine of one thousand dollars (\$1,000) for each employee personnel file that is missing this documentation.

(g) Examination Fees. Any licensee or registrant that does not submit payment to the Department, within sixty (60) days of the fee statement date, for examination fees charged in accordance with O.C.G.A. § 7-1-704(b) and Rule 80-5-1-.03(1) shall be subject to a fine of five hundred dollars (\$500) and their license or registration will be subject to revocation or suspension.

(h) Other Business Activities. Any licensee or registrant found to have violated any law of this state by conducting any other business that is not lawful in conjunction with the check cashing business, shall be subject to a fine of five thousand dollars (\$5,000) and its license or registration will be subject to revocation or suspension.

(i) Advertising. Any person who has been designated as a registrant by the Department and who violates the law and/or Rules pertaining to advertising set forth in O.C.G.A. § 7-1-700(4) and Rule 80-3-1-.02(4)(b) shall be subject to a fine of five hundred dollars (\$500) for each such violation and may be required to surrender its registration and apply for a license, if the Department determines that is the proper designation based upon the nature of the violation(s).

(j) Advertising – “No Identification Required.” A licensee or registrant that advertises that it will cash checks with no identification required will be subject to a fine of one thousand dollars (\$1,000).

(k) Check Cashing Identification Requirements. No licensee or registrant shall cash checks without identification of the bearer of such check. Failure to comply with the requirements of O.C.G.A. § 7-1-705(f) shall subject the licensee or registrant to a fine of one thousand dollars (\$1,000) per occurrence.

(l) Failure to Submit to Exam. The penalty for refusal to permit an investigation or examination of books, accounts, and records, by the Department shall be revocation of license or registration and a five thousand dollars (\$5,000) fine. “Refusal” shall be determined according to Department Rules, examination policies and procedures, but shall require at least two (2) attempts to schedule an examination.

(m) Consumer Complaints. Any licensee or registrant who fails to respond to a written consumer complaint or fails to respond to the Department regarding a consumer complaint, within the time periods specified in the Department’s correspondence to such licensee or registrant, shall be subject to a fine of one thousand dollars (\$1,000) for each occurrence. Repeated failure to properly respond, as reasonably determined by the Department, may result in revocation of license or registration.

(n) Failure to Notify the Department of Change in Ownership. Any licensee, registrant or other person who fails to notify and obtain the Department’s approval of a change in ownership shall be subject to a fine of five thousand dollars (\$5,000) and administrative action by the Department.

(o) Bank Secrecy Act. If the Department, in the course of an examination or investigation, finds that a licensee or registrant has failed to comply with the requirements referred to in Rule 80-3-1-.03(3) entitled “Money Service Businesses Compliance with Federal Requirements,” such licensee or registrant shall be subject to a fine of one thousand dollars (\$1,000) for each instance of non-compliance.

(p) Failure to Post Required License or Registration. Any licensee or registrant that fails to

post a copy of its license or registration in prominent view of each teller window or other customer service station, and at each public entrance to a licensed or registered check cashing business as required shall be subject to a fine of five hundred dollars (\$500) for each instance of non-compliance.

(q) Failure to Timely Disclose Change in Affiliation of Natural Person that Executed Lawful Presence Affidavit and Submission of New Affidavit. Any licensed check casher or registrant that fails to disclose that the owner or executive officer that executed the lawful presence affidavit is no longer in that position with the licensee within ten (10) business days of the date of the event necessitating the disclosure, shall be subject to a fine of one thousand dollars (\$1,000). Any licensed check casher or registrant that fails to submit a new lawful presence affidavit from a current owner or executive officer within ten (10) business days of the owner or executive officer that executed the previous lawful presence affidavit no longer being in that position with the licensee, shall be subject to a fine of one thousand dollars (\$1,000) per day until the new affidavit is provided.

(2) Check Sellers and Money Transmitters. As authorized under Article 4 of Chapter 1 of Title 7, O.C.G.A. § 7-1-689(f), the Department establishes the following fines and penalties for violation of the laws and rules governing sale of check companies and money transmitters. Except as otherwise indicated, these fines and penalties apply to any person, partnership, association, or corporation engaged in the business of transmitting money or selling or issuing checks, money orders, or any other instrument, order, or device for the payment or transmission of money or monetary value that is required to be licensed under O.C.G.A. Title 7, Article 4 (“licensee”). The Department, at its discretion, may waive or modify a fine based upon the gravity of the violation, history of previous violations, and such other facts and circumstances as have contributed to the violation.

(a) Books and Records. If the Department, in the course of an examination or investigation, finds that a licensee has failed to maintain their books and records according to the requirements of O.C.G.A. § 7-1-687.1, such licensee shall be subject to a fine of one thousand dollars (\$1,000) for each ~~type of record~~ violation listed in O.C.G.A. § 7-1-687.1 which is not in compliance.

(b) Operating Without Proper License. Any person who acts as a check seller or money transmitter prior to receiving a current license required under O.C.G.A. Article 4 of Chapter 1 of Title 7, or during the time a suspension, revocation or applicable cease and desist order is in effect, shall be subject to a fine of one thousand dollars (\$1,000) per day of such operation and their application will be subject to denial or their license or registration will be subject to revocation or suspension, as applicable.

(c) Felons. Any licensee that hires or retains an employee who is a felon as described in O.C.G.A. § 7-1-682(c), when such employee has not complied with the remedies provided for in O.C.G.A. § 7-1-682(c) for each conviction before such employment, may be fined five thousand dollars (\$5,000) for each such employee and their license will be subject to revocation or suspension.

(d) Locations and Agents. Any licensee that does not give timely notice to the Department of

new locations or agents beyond those previously reported as required in O.C.G.A. § 7-1-686(b) and Rules 80-3-1-.01(2) and 80-3-1.01(4), shall be subject to a fine of five hundred dollars (\$500) for each location or agent not reported.

(e) GCIC Background Checks on Employees and Agents. Any licensee that does not obtain a Georgia Crime Information Center (GCIC) criminal background check on employees or agents involved with the check selling function prior to the initial date of hire shall be subject to a fine of one thousand dollars (\$1,000). Proof of the required GCIC criminal background check must be retained by the licensee until one year after termination of employment by the licensee. Failure to maintain criminal background checks as required will result in a fine of one thousand dollars (\$1,000) per employee personnel file absent such documentation.

(f) Agents. Any licensee that does not give notice of any agent whose agency certificate has been revoked or suspended by the licensee as required by Rule 80-3-1.01(4), shall be subject to a fine of five thousand dollars (\$5,000) for each agent suspension or revocation not reported in writing to the Department.

(g) Failure to Provide Receipt. A licensed money transmitter, or its authorized agent, that does not provide the customer with a written receipt or other evidence of acceptance as required in Rule 80-3-1-.01(8), shall be subject to a fine of one thousand dollars (\$1,000) per transaction where the receipt was not provided.

(h) Examination Fees. Any licensee that does not submit payment to the Department, within sixty (60) days of the fee statement date, for examination fees charged in accordance with O.C.G.A. § 7-1-684.1 and Rule 80-5-1-.03(1) shall be subject to a fine of one thousand dollars (\$1,000) and their license will be subject to revocation or suspension.

(i) Other Business Activities. Any licensee found to have violated any law of this state by conducting any other business that is not lawful in conjunction with the sale of check or money transmission business, shall be subject to a fine of five thousand dollars (\$5,000) and their license will be subject to revocation or suspension.

(j) Failure to Report. Any licensee who fails to provide required reports as established by the Department from time to time, including the Semi-Annual Reports within the designated time periods established by the Department, shall subject the licensee to a fine of five thousand dollars (\$5,000) for each such occurrence. Repeated failure to provide timely Reports as required may result in revocation of license, registration, or exempt status.

(k) Failure to Submit to Exam. The penalty for refusal to permit an investigation or examination of books, accounts, and records, to the Department shall be revocation of the license or registration and a one thousand dollars (\$1,000) fine. "Refusal" shall be determined according to the Department's Rules, examination policies and procedures, but shall require at least two (2) attempts to schedule an examination.

(l) Consumer Complaints. Any licensee who fails to respond to a written consumer complaint or fails to respond to the Department regarding a consumer complaint, within the time

periods specified in the Department's correspondence to such licensee, shall be subject to a fine of one thousand dollars (\$1,000) for each occurrence. Repeated failure to properly respond, as reasonably determined by the Department, may result in revocation of license.

(m) Bank Secrecy Act. If the Department, in the course of an examination or investigation, finds that a licensee or registrant has failed to comply with the requirements referred to in Rule 80-3-1-.03(3) entitled "Money Service Businesses Compliance with Federal Requirements," such licensee or registrant shall be subject to a fine of one thousand dollars (\$1,000) for each instance of non-compliance.

(n) Failure to Timely Disclose Change in Affiliation of Natural Person that Executed Lawful Presence Affidavit and Submission of New Affidavit. Any licensed check seller or money transmitter that fails to disclose that the owner or executive officer that executed the lawful presence affidavit is no longer in that position with the licensee within ten (10) business days of the date of the event necessitating the disclosure, shall be subject to a fine of one thousand dollars (\$1,000). Any licensed check seller or money transmitter that fails to submit a new lawful presence affidavit from a current owner or executive officer within ten (10) business days of the owner or executive officer that executed the previous lawful presence affidavit no longer being in that position with the licensee, shall be subject to a fine of one thousand dollars (\$1,000) per day until the new affidavit is provided.

(3) All fines levied by the Department are due within thirty (30) days from date of assessment and must be paid prior to renewal of the annual license or registration, reapplication for a license or registration, or any other activity requiring Departmental approval.

(4) All fines collected by the, Department net of the cost of recovery, which cost may include any cost of hearing and discovery in preparation for hearing, shall be paid into the state treasury to the credit of the general fund or may be paid as provided in O.C.G.A. § 7-1-704(d).

Authority O.C.G.A. § 7-1-61; § 7-1-688; § 7-1-707.

80-3-1-.09 Verification of Lawful Presence Citizenship Affidavit.

(1) Pursuant to O.C.G.A. § 50-36-1, the Department is required to obtain an affidavit verifying the lawful presence of every natural person that submits an application for a license as a check seller, money transmitter, check casher, or registrant on behalf of an individual, business, corporation, partnership, limited liability company, or any other business entity. For businesses, corporations, partnerships, limited liability companies, and other business entities (collectively "company applicant"), only an owner or executive officer that is authorized to act on behalf of the company applicant is authorized to submit the required signed and sworn affidavit.

(2) In the event the individual that executed the lawful presence affidavit on behalf of the company applicant is no longer an owner or executive officer of the licensee or registrant, the

licensee or registrant must notify the Department within ten (10) business days following the date of the occurrence and provide the Department with an affidavit from a current owner or executive officer verifying his or her lawful presence on behalf of the licensee or registrant. The failure to disclose within ten (10) business days that the owner or executive officer that executed the lawful presence affidavit is no longer in that position with the licensee or registrant or to timely submit a new affidavit from a current owner or executive officer may subject the license or registration to revocation, suspension, and other administrative action.

Authority O.C.G.A. § 7-1-61; § 7-1-682; § 7-1-683; § 7-1-702

80-5-1-.04 Levy, Collection, Remittance and Refunds of Georgia Residential Mortgage Act Per Loan Fee.

(a) Each borrower who obtains a mortgage loan as defined in O.C.G.A. § 7-1-1000(21) shall pay to the department a per loan fee of \$10.00. The \$10.00 fee will be due if the loan ~~is a residential loan, and if a security deed is secured by a deed to secure debt, security deed, mortgage, security instrument, deed of trust,~~ a modification of a security deed, or other form or modification of a security interest ~~is which has been~~ recorded. A change to a security instrument made solely for the purpose of correcting a clerical error will not be subject to a \$10.00 fee. Any person who closes mortgage loans that are subject to regulation under Article 13, regardless of whether said person is required to be licensed or registered under the Georgia Residential Mortgage Act, shall act as collecting agent for payment to the department of said per loan fee for each mortgage loan closed by that person. A mortgage loan shall be deemed to have been closed by a person if such person is indicated as the secured party on the security deed or any other loan document that establishes a lien on the residential real estate taken as collateral for the mortgage loan.

(b) The fees payable under the provisions of subsection (a) shall be payable to the department by the collecting agent, who is the person responsible for remittance of such fees on a semiannual basis. More specifically, such fees for the period January 1 through June 30 of each year shall be remitted to the department no later than the first business day of September of each year and such fees for the period July 1 through December 31 of each year shall be remitted to the department no later than the first business day of March of each year. A fee statement indicating the number of mortgage loans closed during the applicable reporting period by the person remitting the payment shall accompany the fees remitted. The Department requires that the per loan fees and/or the corresponding statement shall be remitted to the Department through its online reporting and payment system at <https://bkgfin.dbf.state.ga.us/GRMAFee.html>. Failure to remit per loan fees and or the corresponding statement via the online reporting and payment system may result in a fine.

Authority Ga. L. 1974, pp. 732, 733; Ga. L. 1988, p. 243; 1993, p. 543; O.C.G.A. § 7-1-41; § 7-1-61; § 7-1-1011; § 7-1-1012.

80-5-1-.05 Other Charges and Fees.

(1) The department may ~~from time to time establish~~impose reasonable charges for ~~copies of records and publications of the department~~the search, retrieval, or redaction of records which are subject to public inspection consistent with the provisions of Code Section 50-18-71. ~~Copies of records of the department available for public inspection shall be made by department personnel.~~ In addition to the charges for the search, retrieval, or redaction of records subject to public inspection, Ppersons requesting copies of such records shall pay 25-10 cents per page of copy as provided in subsection (c) of Code Section 50-18-71. ~~plus an additional charge of 25 cents per page copied as provided in subsection (d). In no event shall the aggregate charge be less than \$3.~~ One copy of any department publication not available electronically may be provided without charge to financial institutions paying supervision fees pursuant to Rule 80-5-1-.02. Copies of records of the department available for public inspection shall be made by department personnel.

(2) Requests for non-consumer related letter rulings submitted by persons other than persons under the direct supervision of the department shall be accompanied by a fee of \$250.

(3) A charge of \$1,500 shall be paid by parties requesting public hearings before the department pursuant to Rule Chapter 80-1-1. In addition, where a hearing officer not regularly employed by the department conducts the hearing, the actual charge for the services of such person shall be paid.

(4) Persons requesting affidavits certifying to the authenticity of any documents ~~or to the validity of any outstanding charter or license~~ shall pay a fee of \$25 in addition to any copy charges.

(5) Each person required to submit fingerprint cards to the department for any reason, including but not limited to: initial application, change in control, addition of new officer or director or person managing the business, or expanded background check of an employee, shall submit to the department a money order or certified check in an amount as directed by the department a fee to cover the cost of the required number of fingerprints for each individual background check.

(6) The fee for name permission application investigations shall be \$150. The fee is non-refundable.

Authority Ga. L. 1974, pp. 732, 733; Ga. L. 1988, p. 243; 1993, p. 543; O.C.G.A. § 7-1-41; § 7-1-61; § 7-1-1004.

80-10-1-.01 Minimum Records Retention Periods.

(1) STATUTORY REQUIREMENTS: Georgia Minimum Retainment Period

- (a) Minute Book of Stockholders and Directors' Meetings Permanent
- (b) Capital Stock Ledger Permanent
- (c) Capital Stock Certificate Book or Stubs Permanent
- (d) General Ledger Permanent
- (e) General Journal (book of original entry) Permanent
- (f) Investment Ledger or Bond Register Permanent
- (g) Daily Statement of Condition Permanent
- (h) Copies of Examination Reports Permanent
- (i) Evidence of Compliance with Regulation Z of 2 Years Federal Reserve Board (Truth-in-Lending)

(2) AUDITING AND ACCOUNTING: Georgia Minimum Retainment Period

- (a) Accrual & Bond Amortization Records 4 Years
- (b) Audit Work Papers 2 Years
- (c) Bank Call Reports 3 Years
- (d) Daily Reserve Computation 2 Years
- (e) Earnings and Dividend Reports 3 Years
- (f) Internal Reports to Executive Committee or Directors 2 Years
- (g) Securities Vault "In and Out" Tickets 1 Year
- (h) Tax Records 7 Years
- (i) Record of all Assets Charged Off 10 Years
- (j) General Ledger Tickets (debits and credits) 5 Years

- (k) General Ledger Journal (not book of original entry) 1 Month
- (l) Internal Audit Reports 5 Years
- (3) CAPITAL: Georgia Minimum Retainment Period
 - (a) Dividend Checks (paid and canceled) 7 Years
 - (b) Proxies 2 Years
- (4) INVESTMENTS: Georgia Minimum Retainment Period
 - (a) Brokers' Confirmations 2 Years
 - (b) Brokers' Invoices 2 Years
- (5) LOANS AND DISCOUNTS: Georgia Minimum Retainment Period
 - (a) Collateral Receipts 10 Years
 - (b) Debit & Credit Tickets other than General Ledger Tickets 1 Year
 - (c) Loan and Discount Journal:
 - 1. If Journal is a byproduct of posting to Liability Ledger 5 Years
 - 2. If Journal is used as book of original entry with descriptions 5 Years
 - (d) Liability Ledger 10 Years
 - (e) Loan Applications Life of Loan
 - (f) Margin Cards Life of Loan
 - (g) Loan & Discount Register 7 Years
 - (h) Resolutions to Borrow (after account closed) 7 Years
 - (i) Interest Received 2 Years

| (j) Financial Statements and Credit Files 5 Years after payout on loans of \$ 5,000 or more and on all loans secured by real estate.

All others for the life of loan.

(6) RECORD RETENTION FOR CREDIT CARD ACCOUNTS: Georgia Minimum Retainment Period

(a) Cardholder Statement 5 Years

(b) Teller Work (proof operations) 1 Year

(c) Trial Balance 5 Years

(d) Merchant Discount Journal 5 Years

(7) PERSONNEL: Georgia Minimum Retainment Period

(a) Time Cards 3 Years

(b) Salary Ledger 3 Years

(c) Salary Receipts 3 Years

(8) PROOF AND CLEARINGS: Georgia Minimum (see International Section) Retainment Period

(a) Clearing House Settlement Sheets 6 Months

(b) Copies of Advices of Correction 6 Months

(c) Department Proof Sheets 6 Months

(d) Deposit Proof Sheets or Master Tapes of Proof Machine 6 Months

(e) Out-of-Town Clearings Proof Sheets 6 Months

(f) Cash Tickets 3 Months

(9) TELLERS: Georgia Minimum Retainment Period

- (a) Cash Items Record 2 Years
- (b) Receipts for Return Items 1 Month
- (c) Return Items Record book 6 Months
- (d) Tellers' Day Book (Register) 2 Years
- (e) Tellers' Recapitulation 3 Months
- (f) Tellers' Blotter, Journal or Proof 2 Years

(10) CASH AND DUE FROM BANKS: Georgia Minimum Retainment Period

- (a) Incoming Cash Letter Memos for Remittance 3 Months
- (b) Incoming Cash Letters for Credit 3 Months
- (c) Outgoing Cash Letter Memos for Credit or Remittance 6 Months
- (d) Advices of Credit or Debit 6 Months
- (e) Proof Sheets 6 Months
- (f) Bank Statements 1 Year
- (g) Reconcilement Ledger or Register 2 Years

(11) DEPOSIT & CERTIFICATE ACCOUNTS: Georgia Minimum Retainment Period

- (a) Social Security or Tax ID Number for Accounts opened after 6/30/72 (after account closed) 5 years

(12) DUE TO BANKS: Georgia Minimum Retainment Period

- (a) Incoming Cash Letter Memos for Credit 6 Months
- (b) Incoming Cash Letters for Remittance 6 Months

(c) Advices of Credit or Debit 6 Months

(d) Proof Sheets 6 Months

(e) Bank Ledger Sheets 5 Years

(f) Ledger Journal 6 Months

(g) Copies of Advices 6 Months

(h) Reconciliation Verifications 6 Months

(i) Resolutions (after account closed) 7 Years

(j) Signature Cards (after account closed) 5 Years

(k) Statement Copies 5 Years

(13) COMMERCIAL DEPOSITS (DEMAND): Georgia Minimum (see International Section)
Retainment Period

(a) Bookkeepers' Daily List of Checks, charged in total 1 Year

(b) Deposit Tickets and Other Credits 2 Years

(c) Individual Ledger Sheets (after last entry) 5 Years

(d) Individual Ledger Journal 6 Months

(e) Resolutions (after account closed) 7 Years

(f) Signature Cards (after account closed) 5 Years

(g) Statements Undelivered 7 Years

(h) Stop Payment Orders 6 Months

(i) Checks Paid Copy 5 Years

(j) Statements (copies of) 5 Years

(14) SAVINGS DEPOSITS: Georgia Minimum (see International Section) Retainment Period

(a) Deposit Tickets 2 Years

(b) Journal 6 Months

(c) Ledger Cards or Sheets (after last entry) 5 Years

(d) Machine Control Journal Tapes 6 Months

(e) Resolutions (after account closed) 7 Years

(f) Signature Cards (after account closed) 5 Years

(g) Savings Checks 7 Years

(h) Statement Copies 5 Years

(15) CERTIFICATES OF DEPOSIT: Georgia Minimum Retainment Period

(a) Certificates (after date paid) 7 Years

(b) Register Ledger (after account closed) customer or account record 2 Years

(16) CHRISTMAS SAVINGS OR SIMILAR CLUBS: Georgia Minimum Retainment Period

(a) Checks (after date paid) 1 Year

(b) Carbon Copies of Checks (check register) 1 Year

(c) Coupons (used as deposit tickets) 1 Year

(d) Ledger Sheets or Cards 5 Years

(e) Withdrawal Receipts 1 Year

(f) Signature Cards 5 Years

(17) OFFICIAL DRAFTS AND CHECKS: Georgia Minimum Retainment Period

- (a) Cashiers' Checks and Bank Money Orders (after paid) 7 Years
- (b) Certified Checks or Receipts for Same (after paid) 7 Years
- (c) Drafts (after paid) 7 Years
- (d) Expense Checks (after paid) 7 Years
- (e) Official Check Copies (after closed) 2 Years
- (f) Affidavits, Indemnities, etc. pertaining to lost drafts and checks Permanent

(18) INSURANCE RECORDS: Georgia Minimum Retainment Period

- (a) Casualty Liability Policies (expired) 1 Year
- (b) Bankers Blanket Bond, theft, forgery, safe deposit and other forms of insurance issued for same purpose (unless present bond covers all liability in prior bonds) 10 years

(19) COLLECTIONS: Georgia Minimum Retainment Period

- (a) Collections Receipts, Carbons of 2 Years
- (b) Collection Register 2 Years
- (c) Coupons ' cash letters out-going (after settlement) 6 Months
- (d) Departmental Blotter, Journal or Proof 2 Years
- (e) Incoming Collection Letters 6 Months
- (f) Installment Contract or Note Records (after account closed) 2 Years

(20) BOND DEPARTMENT: Georgia Minimum Retainment Period

- (a) Brokers' Confirmations 2 Years
- (b) Brokers' Invoices 2 Years

(c) Securities ' "Buy and sell orders" 2 Years

(21) SAFEKEEPING: Georgia Minimum Retainment Period

(a) Records and Receipts (after account closed) 5 Years

(b) Brokers' Invoices 2 Years

(22) SAFE DEPOSIT VAULT: Georgia Minimum Retainment Period

(a) Access Tickets 5 Years

(b) Canceled Signature Cards 5 Years

(c) Correspondence pertaining to Authorization (after account closed) 5 Years

(d) Lease or Contracts ' closed accounts (after account closed) 5 Years

(e) Ledger Record of Account 1 Year

(f) Night Depository Agreements (after account closed) 1 Year

(g) Night Depository Register (after account closed) 1 Year

(23) PERSONAL TRUST DEPARTMENT: Georgia Minimum Retainment Period

(a) Cash Ledgers and Property Ledgers Permanent

(b) Checks 10 Years

(c) Cash Register 10 Years

(d) Correspondence Files ' General 3 Years

(24) DOCUMENT FILES: Georgia Minimum Retainment Period

(a) Estates, Trusts, Guardianships Permanent

(b) Agencies (after account closed) 5 Years

- (c) Daily Blotter, Departmental (block sheets) 2 Years
- (d) Journals ' Daily 2 Years
- (e) Posting Tickets 2 Years
- (f) Property Controls ' General Ledger Permanent
- (g) Tabulating Cards After completion of income tax record for previous year
- (h) Trial Balance 2 Years
- (i) Annual Trial Balance 20 Years
- (j) Copy or Listing for Form 1099 1 Year after filing
- (k) Purchase and Sell Invoices and Approvals 5 Years
- (l) Daily Statement of Trust Department 3 Years
- (m) Minute Books-Trust Committee and Trust Investment Committee 50 Years
- (25) TAX RETURNS: Georgia Minimum Retainment Period
 - (a) Federal and State Income Tax Returns 5 Years after filing
 - (b) Estate Tax Returns 15 Years after filing
 - (c) Intangible Tax Returns 2 Years after filing
 - (d) Ad Valorem Tax Returns 2 Years after filing
 - (e) Social Security Returns 5 Years after filing
- (26) CORPORATE TRUST DEPARTMENT: Georgia Minimum Retainment Period
 - (a) Corporate Cash and Property Ledgers Permanent Correspondence: Corporate Trust (bond issues) 3 Years Dividend 3 Years General 3 Years

- (b) Coupon Collection Record Optional
- (c) Coupon Envelopes Optional
- (d) Dividend and Interest Disbursement Checks 7 Years
- (e) Dividend and Interest Disbursement List Optional
- (f) Document Files ' Trusts (after account) Permanent
- (g) Document Files ' Agency (after account closed) 5 Years
- (h) Stock Transfer Journals Permanent
- (i) Stock Certificates (cancelled) and supporting documents 20 Years and replacement surety bond

(27) LEDGER RECORDS: Georgia Minimum Retainment Period

- (a) Stockholders' Ledgers (unless transfer agency account closed) Permanent
- (b) Stock (Register Journal) Until account closed
- (c) Stock Transfer Receipts 5 Years
- | (d) Receipts for cancelled bonds, coupons and/or Until account closed cremation certificates
- (e) Stockholders' List Optional
- (f) Daily Blotter, Departmental (block sheets) 2 Years

(28) INTERNATIONAL: Georgia Minimum Retainment Period

- (a) Accounts with foreign banks 5 Years
- | (b) Records of transfer of more than \$ ~~10M~~ 10,000 to persons outside U.S. 5 Years
- | (c) Copy of item of more than \$ ~~10M~~ 10,000 remittance or transferred outside U.S. 5 Years
- | (d) Copy of check of more than \$ 10, 000M drawn on or issued by a foreign bank and acquired by

"bank" 5 Years

(e) Items of more than \$ 10,~~000~~^M received from outside U.S. 5 Years

Authority Ga. L. 1974, pp. 733, 849.

80-11-1-.04 Branch Managers.

(1) A "branch manager" shall mean ~~a person~~an individual who supervises daily activities in Georgia of a licensee, whether at a main or branch location, and regardless of job title.

(2) In order to be approved as a branch manager, an individual must be licensed by the department as a mortgage loan originator.

(~~23~~) No ~~branch manager individual~~ shall be permitted to manage a location in Georgia without being approved by the department as a branch manager. A branch manager may be put in place subject to departmental approval, but the department must receive a complete application for approval within 15 calendar days of the placement. No individual may serve as the branch manager of more than one location of a licensee unless the licensee can demonstrate that the proposed branch manager will be able to effectively manage these locations to ensure that they operate in compliance with state and federal law, and that the manager can adequately supervise the daily functions performed by the employees at the locations. In order to qualify for the employee exemption, an employee must be supervised on a daily basis by the licensee. Considerations by the department in determining whether a branch manager may supervise more than one location will include: proximity of branches to each other, volume of business at each, experience level of proposed manager and plans to handle the supervision.

(~~34~~) The department shall conduct a background check, obtain a credit report, and require a financial statement and such other pertinent information as it may require to satisfy itself that the location will be operated by the branch manager responsibly and in compliance with the laws and rules of this state.

(~~45~~) The applicant must submit two sets of fingerprints, along with a money order or certified check payable to the department in the appropriate amount set by the department in order for the department to cause to be administered the expanded background check as required by O.C.G.A. § 7-1-1004(k).

Authority O.C.G.A. Secs. 7-1-61, 7-1-1006, 7-1-1012.

80-11-3-.01 Administrative Fines.

(1) As authorized under Article 13 of Chapter 1 of Title 7, O.C.G.A. § 7-1-1018(g) and § 7-1-1005(d), the Department establishes the following fines and penalties for violation of the Georgia Residential Mortgage Act (“GRMA”) or its rules. Except as otherwise indicated, these fines and penalties apply to any person who is acting as a mortgage lender or broker and who is required to be licensed or registered under O.C.G.A. Title 7, Chapter 1, Article 13 (“licensee” or “registrant”). The Department, at its sole discretion, may waive or modify a fine based upon the gravity of the violation, history of previous violations, and such other facts and circumstances as have contributed to the violation.

(2) All fines levied by the Department are due within thirty (30) days from date of assessment and must be paid prior to renewal of the annual license or registration, reinstatement of a license or registration, or reapplication for a license or registration, or any other activity requiring Departmental approval.

(3) All fines collected by the Department, net of the cost of recovery, which cost shall include any cost of hearing and discovery in preparation for hearing, shall be paid into the state treasury to the credit of the general fund or may be paid as provided in O.C.G.A. § 7-1-1018(d).

(4) Dealing with Unlicensed Persons. Any licensee or registrant or any employee of either who purchases, sells, places for processing or transfers (or performs activities which are the equivalent thereof) a mortgage loan or loan application to or from a person who is required to be but is not duly licensed under the GRMA shall be subject to a fine of one thousand dollars (\$1,000) per transaction and the licensee or registrant shall be subject to suspension or revocation. Licensees are responsible for the actions of their employees.

(4.1) Permitting unlicensed persons to engage in mortgage loan originator activities. Any licensee or registrant who employs a person who does not hold a mortgage loan originator’s license but engages in licensed mortgage loan originator activities as set forth in O.C.G.A. § 7-1-1000(22) shall be subject to a fine of one thousand dollars (\$1,000) per occurrence and the licensee or registrant shall be subject to suspension or revocation. Licensees are responsible for the actions of their employees.

(5) Relocation of Office. Any mortgage broker or mortgage lender licensee who relocates their main office or any additional office and does not notify the Department within thirty (30) days of the relocation in accordance with O.C.G.A. § 7-1-1006(e) shall be subject to a fine of five hundred dollars (\$500).

(6) Unapproved Offices. In addition to the application, fee and approval requirements of O.C.G.A. § 7-1-1006(f), any licensee who operates an unapproved branch office shall be subject to a fine of five hundred dollars (\$500) per unapproved branch office operated and their license will be subject to revocation or suspension;

(7) Change in Ownership. Any person who acquires ten percent (10%) or more of the capital stock or a ten percent (10%) or more ownership of a mortgage broker or mortgage lender licensee without the prior approval of the Department in violation of O.C.G.A. § 7-1-1008 shall

be subject to a fine of five hundred dollars (\$500) and their license or registration will be subject to revocation or suspension;

(8) Doing Business Without a License or in Violation of Administrative Order. Any person who acts as a mortgage broker or mortgage lender prior to receiving a current license or registration required under O.C.G.A. Title 7, Chapter 1, Article 13, or during the time a suspension, revocation or applicable cease and desist order is in effect, shall be subject to a fine of one thousand dollars (\$1,000) per transaction and their mortgage lender or broker application will be subject to denial or their license or registration will be subject to revocation or suspension.

(9) Hiring a Felon. Any mortgage broker or mortgage lender licensee or registrant who hires or retains an employee who is a felon as described in O.C.G.A. § 7-1-1004(h), which employee has not complied with the remedies provided for in O.C.G.A. § 7-1-1004(h), may be fined five thousand dollars (\$5,000) per employee found to be in violation of such provision and their license or registration will be subject to revocation or suspension.

(10) Hiring Persons Otherwise Disqualified from Conducting a Mortgage Business. Any mortgage broker or mortgage lender licensee or registrant who employs any person against whom a final cease and desist order has been issued for a violation that occurred within the preceding five (5) years, if such order was based on a violation of O.C.G.A. § 7-1-1013 or based on the conducting of a mortgage business without a required license or exemption, or whose license was revoked within five (5) years of the date such person was hired pursuant to O.C.G.A. § 7-1-1004(o) shall be subject to a fine of five thousand dollars (\$5,000) per such employee and its license or registration will be subject to revocation or suspension;

(11) Books and Records Violations. If the Department, in the course of an examination or investigation, finds that a licensee or registrant has failed to maintain their books and records according to the requirements of O.C.G.A. § 7-1-1009 and Rule Chapter 80-11-2, such licensee or registrant may be subject to a fine of one thousand dollars (\$1,000) for each violation of a books and records requirement listed in Rule Chapter 80-11-2.

(12) Maintenance of Loan Files. Any person who is required to be licensed under O.C.G.A. Title 7, Chapter 1, Article 13 as a mortgage broker or any lender acting as a broker who fails to maintain a loan file for each mortgage loan transaction as required by Rule 80-11-2-.04 or who fails to have all required documents in such file shall be subject to a fine of one thousand dollars (\$1,000) per file not maintained or not accessible, or per file not containing required documentation.

(13) Payment of \$10.00 fees and filing of fee statement. Pursuant to Rule 80-5-1-.04 and O.C.G.A. § 7-1-1011 of the Georgia Residential Mortgage Act, Any person who acts as the collecting agent at a closing of a mortgage loan transaction~~subject to the Georgia Residential Mortgage Act, is liable for payment of the \$10.00 fee to the Department, pursuant to O.C.G.A. § 7-1-1011 and Rule 80-5-1-.04.~~ The ~~filing of a fee statement and the~~ remittance of any \$10.00 fees collected ~~made~~ after the date on which they are due shall subject the person to a late payment fee of one hundred dollars (\$100) for each due date missed. The filing of a fee

statement after the date on which it is due, even if no \$10.00 fees were collected by the collecting agent during the applicable reporting period, shall subject the person to a late filing fee of one hundred dollars (\$100) for each due date missed. If the Department finds that a person has not, through negligence or otherwise, submitted \$10.00 fees within six months of the due date, it may impose an additional one hundred dollars (\$100) fine for failure to remit fees. Repeated failures to submit \$10.00 fees may be grounds for revocation of license.

(14) Repealed. Reserved.

(15) ~~Reporting of Violation of Law or Discharge of Employee for Same~~Failure to Timely Report Certain Events. Any person required to be licensed or registered under O.C.G.A. Title 7, Chapter 1, Article 13 as a mortgage lender or broker, who fails to report ~~prohibited acts or the discharge of employees for dishonest acts, pursuant to any of the events enumerated in~~ -O.C.G.A. § 7-1-1007(d), shall be subject to a fine of one thousand dollars (\$1,000) per act not reported in writing to the Department within 10 days of knowledge of such act.

(16) Prohibited Acts. Any person who is required to be licensed or registered under O.C.G.A. Title 7, Chapter 1, Article 13 as a mortgage broker or mortgage lender who violates the provisions of O.C.G.A. § 7-1-1013 shall be subject to a fine of one thousand dollars (\$1,000) per violation or transaction that is in violation and his or her license shall be subject to suspension or revocation. Misrepresentations also subject the person making them to a fine. Misrepresentations include but are not limited to the following: (i) inaccurate or false identification of applicant's employer; (ii) significant discrepancy between applicant's stated income and actual income; (iii) omission of a loan to applicant, listed on loan application, which was closed through same lender or broker; (iv) false or materially overstated information regarding depository accounts; (v) false or altered credit report; and (vi) any fraudulent or unauthorized document used in the loan process. A fine of one thousand dollars (\$1,000) shall be assessed for any other violation of O.C.G.A. § 7-1-1013. The Department shall upon written request provide evidence of the violation.

(17) Branch Manager Approval. Any person who is required to be licensed or registered as a mortgage broker or mortgage lender shall be subject to a fine of five hundred dollars (\$500) for operation of a branch with an unapproved branch manager and the license will be subject to revocation or suspension. No such fine shall be levied while Department approval is pending if timely application for approval is made pursuant to Rule 80-11-1-.04.

(18) Education and Experience Requirements. Any mortgage broker licensee subject to the experience and education requirements who fails to meet such requirements shall be fined one thousand dollars (\$1,000) for operating a mortgage business without meeting licensing standards, and their license or registration will be subject to revocation or suspension.

(19) Failure to Fund. O.C.G.A. § 7-1-1013(3) prohibits failure "to disburse funds in accordance with a written commitment or agreement to make a mortgage loan." If the Department finds, either through a consumer complaint or otherwise, that a lender or a broker acting as a lender has failed to disburse funds in accordance with closing documents, which include legally binding executed agreements indicating a promise to pay and a creation of a

security interest, a fine of five thousand dollars (\$5,000) per transaction may be imposed and its license or registration may be subject to revocation or suspension.

(20) Advertising. Any person who is required to be licensed or registered as a mortgage broker or mortgage lender who violates the regulations relative to advertising contained in O.C.G.A. § 7-1-1004.3 and § 7-1-1016 or the advertising requirements of department Rule 80-11-1-.02 shall be subject to a fine of five hundred dollars (\$500) for each violation of law or rule.

(21) Failure to Submit to Examination or Investigation. The penalty for refusal to permit an investigation or examination of books, accounts and records (after a reasonable request by the Department) shall be revocation of the license or registration and a five thousand dollars (\$5,000) fine. Refusal shall be determined according to Department examination policies and procedures, but shall require at least two attempts to schedule an examination or investigation.

(22) Repealed. Reserved.

(23) Background Checks. Any licensee who fails to perform proper background checks on covered employees in accordance with the provisions of O.C.G.A. § 7-1-1004(h), (i), and (k) shall be subject to a fine of one thousand dollars (\$1,000) for each employee on whom the required background check was not conducted.

(24) Change in Officers. Any licensee who fails to notify the Department of a change in principals of the company without the proper approval of the Department in violation of O.C.G.A. § 7-1-1006(e) shall be subject to a fine of five hundred dollars (\$500).

(25) Georgia Fair Lending Act. Any person who is required to be licensed or registered under O.C.G.A. Title 7, Chapter 1, Article 13 as a mortgage broker or mortgage lender who violates any provision of Chapter 6A of Article 13, the Georgia Fair Lending Act, shall be subject to a fine of one thousand dollars (\$1,000) per violation or transaction that is in violation and their license will be subject to revocation or suspension.

(26) Consumer Complaints. Any licensee or registrant who fails to respond to a consumer complaint or fails to respond to the Department within the time periods specified in the Department's correspondence to such person shall be subject to a fine of one thousand dollars (\$1,000) for each occurrence. Repeated failure to properly respond to consumer complaints may result in revocation of license.

(27) Failure to Perform Timely Background Checks. If the ten (10) day requirement for submission of background information to the proper law enforcement authorities is not met, the employer shall be subject to a one thousand dollars (\$1,000) fine.

(28) Failure to Timely File Call Reports. Any licensee or registrant who fails to timely file a Call Report as required through the Nationwide Mortgage Licensing System and Registry shall be subject to a one hundred dollars (\$100) fine per occurrence. Repeated failure to timely file Call Reports as required may result in revocation of license.

(29) Failure to Timely Disclose Change in Affiliation of Natural Person that Executed Lawful Presence Affidavit and Submission of New Affidavit. Any licensed mortgage lender, mortgage broker, or registrant that fails to disclose that the owner or executive officer that executed the lawful presence affidavit is no longer in that position with the licensee or registrant within ten (10) business days of the date of the event necessitating the disclosure, shall be subject to a fine of one thousand dollars (\$1,000). Any licensed mortgage broker, mortgage lender, or registrant that fails to submit a new lawful presence affidavit from a current owner or executive officer within ten (10) business days of the owner or executive officer that executed the previous lawful presence affidavit no longer being in that position with the licensee or registrant, shall be subject to a fine of one thousand dollars (\$1,000) per day until the new affidavit is provided.

(30) Failure to Timely Update Information on the Nationwide Multi-State Licensing System and Registry. Any licensed mortgage broker, mortgage lender, or registrant that fails to update its information on the Nationwide Multi-State Licensing System and Registry (“NMLSR”), including, but not limited to, amendments to any response to disclosure questions on an application or a licensee’s or registrant’s NMLSR MU-1, within ten (10) business days of the date of the event necessitating the change, shall be subject to a fine of one thousand dollars (\$1,000) per occurrence. In addition, the failure of a control person of a licensed mortgage broker, mortgage lender, or registrant to update the individuals information on the NMLSR, including, but not limited to, amendments to any response to disclosure questions on the control person’s NMLSR MU-2, within ten (10) business days of the date of the even necessitating the change, shall subject the licensed mortgage broker, mortgage lender, or registrant to a fine of one thousand dollars (\$1,000) per occurrence.

Authority O.C.G.A. § 7-1-61; § 7-1-1012; § 7-1-1004.1.

CHAPTER 80-11-4

LICENSING

TABLE OF CONTENTS

80-11-4-.01 Initial Experience and Education Requirements; Continuing Education.

80-11-4-.02 Approved Schools.

80-11-4-.03 Licensing Requirements; Registrants; Exemptions; Term for Bond.

80-11-4-.04 Temporary License.

80-11-4-.05 Knowing Purchase, Sale or Transfer of Loan or Loan Application for Unlicensed Entity.

80-11-4-.06 Wholly Owned Subsidiaries of Lenders; Notification Statement; When Registration Required.

80-11-4-.07 Loan Processors as Brokers.

80-11-4-.08 Restrictions on Employment and Licensing.

80-11-4-.09 Challenges to Information Entered into the Nationwide Mortgage Licensing System and Registry.

80-11-4-.10 Verification of Lawful Presence Citizenship Affidavit.

80-11-4-.11 Information on the Nationwide Multistate Licensing System and Registry.

80-11-4-.07 Loan Processors as Brokers.

(1) Mortgage brokers include persons who directly or indirectly solicit, process, place or negotiate or offer mortgage loans for others. A loan processor is a mortgage broker and will require a mortgage broker license to process loans on Georgia real property that meet the definition of "mortgage loan" in O.C.G.A. ~~§ 7-1-1001(13)~~7-1-1000(21).

(2) A loan processor employed as a W-2 employee of a Georgia Residential Mortgage Act licensee who meets all of the qualifications for exemption under O.C.G.A. § 7-1-1001 does not require a license. A loan processor who works as an independent contractor or who owns or controls a company that does loan processing is required to have a license.

(3) Generally, to process a loan means to collect and/or verify from a borrower or other person, information that is necessary to underwrite or to submit for underwriting, a mortgage loan application package. Activities including but not limited to the following may qualify as loan processing:

- (a) Reviewing, and processing real estate loan applications.
- (b) Ordering, obtaining and evaluating credit reports, real estate appraisals, flood certifications, location surveys, termite inspections, well/septic inspections, surveys, etc.
- (c) Ordering, obtaining, and evaluating real property ownership information, including a title insurance policy insuring lender's valid lien position. Title insurance companies that handle only title insurance for a particular loan are not loan processors.
- (d) Communicating with applicants as necessary to obtain additional information needed to process a loan.
- (e) Obtaining verifications of income, employment, address, etc. as requested by a broker, lender or mortgage loan originator.
- (f) Performing escrow account analyses; taking steps required to establish escrow accounts.
- (g) Providing certain real estate loan disclosures on behalf of lender.
- (h) Compiling and transmitting completed real estate loan application packages to lenders.
- (i) Maintaining, collecting, and/or reporting any data necessary to comply with applicable statutory and regulatory requirements.

(4) Persons who are otherwise exempt from licensing in O.C.G.A. § 7-1-1001, so long as they provide only the services contemplated in their exemption, will not be considered loan processors.

Authority O.C.G.A. § 7-1-61; § 7-1-1012.

80-11-4-.10 Verification of Lawful Presence Citizenship Affidavit.

(1) Pursuant to O.C.G.A. § 50-36-1, the Department is required to obtain an affidavit verifying the lawful presence of every natural person that submits an application for a license as a mortgage broker or mortgage lender or a registration on behalf of an individual, business, corporation, partnership, limited liability company, or any other business entity. For businesses, corporations, partnerships, limited liability companies, and other business entities (collectively “company applicant”), only an owner or executive officer that is authorized to act on behalf of the company applicant is authorized to submit the required signed and sworn affidavit.

(2) In the event the individual that executed the lawful presence affidavit on behalf of the company applicant is no longer an owner or executive officer of the licensee or registrant, the licensee or registrant must notify the Department within ten (10) business days following the date of the occurrence and provide the Department with an affidavit from a current owner or executive officer verifying his or her lawful presence on behalf of the licensee or registrant. The failure to disclose within ten (10) business days that the owner or executive officer that executed the lawful presence affidavit is no longer in that position with the licensee or registrant or to timely submit a new affidavit from a current owner or executive officer may subject the license or registration to revocation, suspension, or other administrative action.

Authority O.C.G.A. § 7-1-1003; § 7-1-1004; § 7-1-1012.2.

80-11-4-.11 Information on the Nationwide Multi-State Licensing System and Registry.

(1) It shall be the sole responsibility of each applicant for a mortgage lender or mortgage broker licensee, each applicant for a registration, each licensed mortgage broker and mortgage lender, and each registrant to keep current at all times its information on the Nationwide Multi-State Licensing System and Registry (“NMLSR”). Amendments to any information on file with the NMLSR must be made by the applicant, licensee, or registrant within ten (10) business days of the date of the event necessitating the change. The Department shall have no responsibility for any communication not received by an applicant, licensee, or registrant due to its failure to maintain current contact information on the NMLSR as required.

(2) Amendments to any responses to disclosure questions on an NMLSR MU-1 by an applicant for a mortgage lender or mortgage broker license, an applicant for a registration, a licensed mortgage lender or mortgage broker, or a registrant must be made within ten (10) business days following the date of the event necessitating the change. Failure by an applicant for a mortgage lender or mortgage broker license or an applicant for a registration to timely update the applicant's NMLSR MU-1 may result in the denial of the application. In the case of a licensed mortgage lender or mortgage broker or a registrant, failure to timely update any disclosure information on the NMLSR MU-1 may result in the revocation of its license or registration.

(3) It shall be the responsibility of each applicant for a mortgage lender or mortgage broker licensee, each applicant for a registration, each licensed mortgage broker and mortgage lender, and each registrant to ensure that its control persons keep current at all times their information on the Nationwide Multi-State Licensing System and Registry ("NMLSR"). Amendments to any information on file with the NMLSR must be made by the control person within ten (10) business days of the date of the event necessitating the change. For purposes of this rule, control person means any individual that has the power, either directly or indirectly, to direct or cause the direction of management and policies of an applicant, licensee, or registrant, whether through the ownership of voting or nonvoting securities, by contract, or otherwise.

(4) Amendments to any responses to disclosure questions on an NMLSR MU-2 by a control person must be made within ten (10) business days following the date of the event necessitating the change. Failure by a control person of an applicant for a mortgage lender or mortgage broker license or an applicant for a registration to timely update the control person's NMLSR MU-2 may result in the denial of the application. In the case of a licensed mortgage lender or mortgage broker or a registrant, failure by a control person to timely update any disclosure information on the NMLSR MU-4 may result in the revocation of the mortgage broker or mortgage lender license or registration.

Authority O.C.G.A. § 7-1-61; § 7-1-1003; § 7-1-1003.5; § 7-1-1012.

80-11-5-.05 Administrative Fines.

(1) The Department establishes the following fines and penalties for violation by mortgage loan originators of the Georgia Residential Mortgage Act ("GRMA") or its rules. The Department, in its sole discretion, may waive or modify any fine based upon the gravity of the violation, history of previous violations, and such other facts and circumstances as have contributed to the violation.

(2) All fines levied by the Department are due within thirty (30) days from date of assessment and must be paid prior to renewal of the annual license or registration, reinstatement of a license or registration, or reapplication for a license or registration, or any other activity requiring Departmental approval.

(3) All fines collected by the Department shall be paid into the state treasury to the credit of the general fund.

(4) The following fines shall be assessed for violations of GRMA and Department rules:

(a) Dealing with Unlicensed Persons. A mortgage loan originator that purchases, sells, places for processing or transfers (or performs activities which are the equivalent thereof) a mortgage loan or loan application to or from a person who is required to be but is not duly licensed under GRMA shall be subject to a fine of one thousand dollars (\$ 1,000) per transaction and his or her license shall be subject to suspension or revocation.

(b) Unapproved Location. A mortgage loan originator that operates from a location in Georgia other than a required approved location on record with the Department shall be subject to a fine of five hundred dollars (\$ 500) per unapproved location operated and his or her license may be subject to revocation or suspension.

(c) Doing Business Without a License or in Violation of Administrative Order. Any person who acts as a mortgage loan originator prior to receiving a current license or registration required under GRMA, or during the time a suspension, revocation or applicable cease and desist order is in effect, shall be subject to a fine of one thousand dollars (\$ 1,000) per transaction and the mortgage loan originator's application will be subject to denial or his or her license or registration will be subject to revocation or suspension.

(d) Books and Records Violations. If the Department, in the course of an examination or investigation, finds that a mortgage loan originator licensee or registrant has failed to maintain his or her books and records according to the requirements of Rule 80-11-5-.024, such licensee or registrant may be subject to a fine of one thousand dollars (\$ 1,000) for each violation of a books and records found to occur.

(e) Prohibited Acts. Any person who is required to be licensed under O.C.G.A. Title 7, Article 13 as a mortgage loan originator who violates the provisions of O.C.G.A. § 7-1-1013 shall be subject to a fine of one thousand dollars (\$ 1,000) per violation or transaction that is in violation and his or her license shall be subject to suspension or revocation.

(f) Education Requirements. A mortgage loan originator who fails to meet the requirement that he or she timely obtain the type and number of continuing education hours each year as required shall be fined one hundred dollars (\$ 100).

(g) Advertising. A mortgage loan originator that is required to be licensed who violates the regulations relative to advertising contained in O.C.G.A. §§ 7-1-1004.3 and 7-1-1016 or the advertising requirements of the Department shall be subject to a fine of five hundred dollars (\$ 500) for each violation of law or rule.

(h) Failure to Submit to Examination or Investigation. The penalty for refusal to permit an investigation or examination of books, accounts and records (after a reasonable request by the Department) shall be revocation of the license or registration and a five thousand dollars (\$ 5,000) fine. Refusal shall be determined according to Department examination policies and procedures, but shall require at least two attempts to schedule an examination or investigation.

(i) Permitting an unlicensed person to use a licensed mortgage loan originator's license and identity. Any licensed mortgage loan originator who permits an unlicensed person to use that licensee's name, Nationwide Mortgage Licensing System and Registry Number or other identifying information for the purpose of submitting loan documents to lenders shall be subject to a fine of one thousand dollars (\$ 1,000) per occurrence, and the license of the mortgage loan originator shall be subject to revocation.

(j) Failure to Timely Update Information on the Nationwide Mortgage Licensing System and Registry. Any licensed mortgage loan originator that fails to update his or her information on the Nationwide Mortgage Licensing System Registry ("NMLSR") including, but not limited to, amendments to any responses to disclosure questions on an application or a licensee's NMLSR MU-4, within ten (10) business days of the date of the event necessitating the change, shall be subject to a fine of one thousand dollars (\$1,000) per occurrence.

Authority O.C.G.A. Sec. 7-1-1018.

80-11-5-.07 Information on the Nationwide Mortgage Licensing System and Registry.

(1) It shall be the sole responsibility of each mortgage loan originator applicant and licensee to keep current at all times his or her information on the Nationwide Mortgage Licensing System and Registry ("NMLSR"), including, but not limited to, his or her employment history, e-mail address, telephone numbers, facsimile number, and residential history. Amendments to any ~~contact~~ information on file with the NMLSR must be made by the applicant or licensee within ten (10) business days of the date of the event necessitating the change. The Department shall have no responsibility for any communication not received by an applicant or licensee due to his or her failure to maintain current contact information on the Nationwide Mortgage Licensing System and Registry as required.

(2) Amendments to any responses to disclosure questions on a mortgage loan originator applicant or licensee's NMLSR MU-4 must be made within ten (10) business days following the date of the event necessitating the change. Failure by an applicant for a mortgage loan originator's license to timely update the applicant's MU-4 may result in the denial or administrative withdrawal of his or her license application. In the case of a licensed mortgage loan originator, failure to timely update any disclosure information on the NMLSR MU-4 may result in the revocation of his or her license.

Authority O.C.G.A. Secs. 7-1-61, 7-1-1003, 7-1-1004.